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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,832	12/27/2001	Jack E. Haken	US010712	5495

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
3629	

DATE MAILED: 12/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/029,832	HAKEN, JACK E.	
	Examiner	Art Unit	
	Jamisque A. Webb	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8,10,11,13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8,10,11,13 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

1. Claim 13 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim is directed to an apparatus, which is an electrical signal that contains information. An electrical signal is a non-tangible object, it is not being received anywhere, nor is it being transmitting. The applicant is merely claiming the signal itself, which is non-statutory subject matter.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8, 10, 11, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraisser et al. (6,701,299) in view of Ohler et al. (6,424,910).

3. With respect to Claim 1: Kraisser discloses a method for the delivery of items to a customer comprising the steps of:

- a. Receiving order data, which includes identification of goods (Figure 11) from a customer's terminal (Column 6, lines 46-67);
- b. Transmits available delivery date and time for the customer to receive delivery (which the examiner considers to be one supply location), in which the customer chooses the date and time (Column 8, lines 12-28 and 60-67).

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4. Kraiser however fails to disclose the order being received from a wireless terminal, the system receiving the customer's current position and anticipated route of travel to determine candidate rendezvous positions for the deliverer and customer. Ohler et al. (6,424,910) discloses the use of a method and system which determines rendezvous points for two users along the users anticipated routes of travel (See abstract, Figure 1, and Column 2, lines 53-65, column 3, lines 48-57). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kraisser to include the rendezvous system of Ohler to facilitate delivery of items or services to a user, in order to provide a meeting place that is convenient for both parties. See Ohler, Column 4.

5. With respect to Claim 2: See Kraisser, Figure 12.

6. With respect to Claim 3: See Ohler, Column 6, lines 52-67.

7. With respect to Claims 4: See Ohler, Column 5, lines 61-67, Column 6, lines 52-67.

8. With respect to Claim 5: See Ohler, Column 6, line 52 to Column 7, line 28.

9. With respect to Claim 11: See Ohler, reference numeral 110.

10. With respect to Claim 10: See Kraisser, Figure 10.

11. With respect to Claim 13 and 14: Ohler discloses everything done wirelessly, therefore the data would be transmitted via signals (Column 2, lines 53-65).

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kraisser et al and Ohler et al. as applied to claims 1 and 5 above, and further in view of O'Meara et al. (US 2002/0077876).

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13. Kraisser and Ohler discloses the customer giving a delivery address information and step of calculating includes the delivery address of the customer as well as the GPS location of the carrier (Page 4, paragraph 0044), but fails to disclose calculating the route based on travel constraints, and to update the route of the rendezvous position based on the location of the customer and the carrier. O'Meara discloses a method for allocating or dispatching delivery or repair vehicles (see abstract), which are based on travel constraints such as anticipated traffic during rush hour (Page 2, paragraph 0037), and can change the anticipated time of arrival, or route for the rendezvous position, based on the location of the driver/service person (See page 2, paragraphs 0028 and 0029, and page 3, paragraph 0036-0038). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Kraisser and Ohler, to include the ability to factor in travel constraints and to modify times and routes in order to improve the efficiency of scheduling the allocation of delivery and service vehicles (See O'Meara Page 1).

14. With respect to Claim 7: See Ohler, Column 13, line 50 to Column 14, line 8.

15. With respect to Claim 8: See Ohler, reference numeral 110.

### ***Response to Arguments***

16. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

17. Applicant's arguments in regards to the affidavits trying to overcome the Wood reference. The reference has been modified, and these arguments are moot in view of the new rejection.

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18. With respect to Applicant's arguments in regards to the electrical signal: An electrical signal is an intangible object. The applicant has provided a definition of tangible, which anything that can be perceived, but in order for an object to be statutory, it must be concrete and tangible. A signal is not concrete, it cannot be seen or touched or even practiced, therefore intangible and non-concrete, which is considered non-statutory subject matter, rejection stands as stated above.

### *Conclusion*

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (571) 272-6811. The examiner can normally be reached on M-F (7:30 - 4:00).

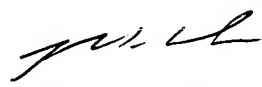
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jamisue Webb



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